



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2010 REGULAR SESSION

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HOUSE BILL NO. 1

AS ENACTED

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WEDNESDAY, APRIL 14, 2010

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TREY GRAYSON  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY R. Allen

AN ACT relating to public safety.

***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

1        ➔ Section 1. KRS 403.720 is amended to read as follows:

2        As used in KRS 403.715 to 403.785:

3        (1) "Domestic violence and abuse" means physical injury, serious physical injury,  
4        sexual abuse, assault, or the infliction of fear of imminent physical injury, serious  
5        physical injury, sexual abuse, or assault between family members or members of an  
6        unmarried couple;

7        (2) "Family member" means a spouse, including a former spouse, a grandparent, a  
8        parent, a child, a stepchild, or any other person living in the same household as a  
9        child if the child is the alleged victim; ~~related by consanguinity or affinity within~~  
10       ~~the second degree; and~~

11       (3) "Global positioning monitoring system" means a system that electronically  
12       determines a person's location through global positioning satellite technology,  
13       radio frequency technology, or a combination thereof and reports the location of  
14       an individual through the use of a transmitter or similar device worn by that  
15       individual and that transmits latitude and longitude data to a monitoring entity.  
16       The term does not include any system that contains or operates global positioning  
17       system technology, or any other similar technology, that is implanted or otherwise  
18       invades or violates the individual's body; and

19       (4) "Member of an unmarried couple" means each member of an unmarried couple  
20       which allegedly has a child in common, any children of that couple, or a member of  
21       an unmarried couple who are living together or have formerly lived together.

22       ➔ Section 2. KRS 403.740 is amended to read as follows:

23       (1) If, upon review of the petition, as provided for in KRS 403.735, the court  
24       determines that the allegations contained therein indicate the presence of an  
25       immediate and present danger of domestic violence and abuse, the court shall issue,

1 upon proper motion, ex parte, an emergency protective order:

2 (a) Restraining the adverse party from any contact or communication with the  
3 petitioner except as directed by the court;

4 (b) Restraining the adverse party from committing further acts of domestic  
5 violence and abuse;

6 (c) Restraining the adverse party from disposing of or damaging any of the  
7 property of the parties;

8 (d) Restraining the adverse party from going to or within a specified distance of  
9 a specifically described residence, school, or place of employment of the  
10 petitioner, minor child of the petitioner, family member, or member of an  
11 unmarried couple protected in the order;

12 (e) Directing the adverse party to vacate the residence shared by the parties to the  
13 action;

14 ~~(f)(e)~~ Utilizing the criteria set forth in KRS 403.270, 403.320, and KRS  
15 403.822, grant temporary custody;~~or~~

16 (g) Restraining the adverse party from approaching the petitioner or a minor  
17 child of the petitioner within a distance specified in the order, not to exceed  
18 five hundred (500) feet; or

19 ~~(h)(f)~~ Enter other orders the court believes will be of assistance in eliminating  
20 future acts of domestic violence and abuse; or any combination thereof, except  
21 that the use of a global positioning monitoring system shall not be ordered.

22 (2) Except as provided in KRS 403.036, if the court issues an emergency protective  
23 order pursuant to subsection (1) of this section, the court shall not order or refer the  
24 parties to mediation for resolution of the issues alleged in the petition filed pursuant  
25 to KRS 403.735.

26 (3) An emergency protective order issued in accordance with this section shall be  
27 issued without bond being required of the petitioner.

1 (4) An emergency protective order issued in accordance with this section shall be  
 2 effective until the full hearing provided for in this subsection or in KRS 403.745,  
 3 or until withdrawn by the court~~[for a period of time fixed in the order, but not to~~  
 4 ~~exceed fourteen (14) days]~~. Upon the issuance of an emergency protective order, the  
 5 court shall set a date and time for a full hearing, within fourteen (14) days as  
 6 provided for in KRS 403.745, and shall summon the adverse party to appear. If, at  
 7 the hearing, the adverse party is not present and has not been served, the  
 8 emergency protective order shall remain in place, and the court shall direct the  
 9 issuance of a new summons for a hearing set not more than fourteen (14) days in  
 10 the future.~~[shall be fixed not later than the expiration date of the emergency~~  
 11 ~~protective order. An emergency protective order shall be reissued for a period not to~~  
 12 ~~exceed fourteen (14) days]~~ If service has not been made on the adverse party prior  
 13 to seventy-two (72) hours before that hearing or a subsequent hearing, the  
 14 emergency protective order shall remain in place and the court shall continue the  
 15 hearing and issue a new summons with a new date and time for the hearing to  
 16 occur, which shall be within fourteen (14) days of the originally scheduled date  
 17 for the continued hearing. Before issuing the new summons, the court shall note  
 18 the length of time that has passed since the issuance of the emergency protective  
 19 order, during which the adverse party has not been served. The court shall repeat  
 20 the process of continuing the hearing and reissuing a new summons after noting  
 21 the lapse of time since the issuance of the emergency protective order until the  
 22 adverse party is served at least seventy-two (72) hours in advance of the scheduled  
 23 hearing. In issuing the summons, the court shall simultaneously transmit a copy  
 24 of the summons or notice of its issuance and provisions to the petitioner~~[by the~~  
 25 ~~fixed court date and time or as the court determines is necessary for the protection~~  
 26 ~~of the petitioner]~~.

27 (5) The adverse party shall be personally served with a copy of the emergency

protective order, a copy of the summons~~[notice]~~ setting the full hearing, and a copy of the petition. Service may be made in the manner and by the persons authorized to serve subpoenas under the provisions of Rule 45.03 of the Rules of Civil Procedure. No service fee shall be assessed to the petitioner.

**(6) (a) The provisions of this section permitting the continuance of an emergency protective order shall be limited to six (6) months from the issuance of the initial emergency protective order.**

**(b) If the respondent has not been served within the six (6) month period, the emergency protective order shall be rescinded without prejudice. Prior to the expiration of the emergency protective order, the court shall provide notice to the petitioner stating that if the petitioner does not file a new petition the order shall be rescinded without prejudice.**

**(c) A new emergency protective order shall not be issued by the court unless the petitioner files a new petition, which shall start the six (6) month process again.**

**(d) The total length of time that a series of emergency protective orders may remain in effect without the respondent being served shall not exceed two (2) years.**

➔SECTION 3. A NEW SECTION OF KRS 403.715 TO 403.785 IS CREATED TO READ AS FOLLOWS:

**(1) Prior to a hearing on a domestic violence order, the petitioner or the respondent may request the court to obtain the information specified in this subsection, or the court on its own motion may obtain the information specified in this subsection:**

**(a) Obtain the respondent's Kentucky criminal history from the Department of Kentucky State Police or the Administrative Office of the Courts; and**

**(b) Obtain the history of any Kentucky emergency protective orders or domestic**

violence orders relating to the respondent, and the record of compliance with those orders from the Administrative Office of the Courts.

(2) After obtaining the information requested in subsection (1) of this section, the court shall review the documents which have been received and shall:

(a) Consider the respondent's criminal history, paying particular attention to the respondent's record of past violence, threats of violence, and danger to others;

(b) Consider the record of any past emergency protective orders or domestic violence orders entered by any Kentucky court relating to the respondent and the record of the respondent's compliance or noncompliance with those orders; and

(c) Utilize that information at any hearing required by KRS 403.740 or 403.745 to assess which sanctions may protect against danger to the petitioner or a family member or member of an unmarried couple for whom protection is being sought.

(3) The court shall provide a copy of the respondent's criminal history information, emergency protective order history information, and domestic violence order history information to the petitioner and to the respondent or counsel for the petitioner and counsel for the respondent in accordance with the provisions of CR 26, including CR 26.03, of the Rules of Civil Procedure.

➔SECTION 4. A NEW SECTION OF KRS 403.715 TO 403.785 IS CREATED TO READ AS FOLLOWS:

(1) (a) Based upon the information which the court has received as required by Section 3 of this Act, including but not limited to the respondent's Kentucky criminal history, the respondent's domestic violence order history, domestic violence order compliance history, and the information contained in the petition, the court may, if the court deems it appropriate, suggest that the

1           petitioner contact the county attorney.

2           **(b) If the court decides to refer the petitioner to the county attorney, the court**  
 3           **shall explain to the petitioner that the purpose of the meeting is so that the**  
 4           **county attorney can explain to the petitioner the options that the petitioner**  
 5           **may have with regard to the filing of criminal charges regarding any**  
 6           **alleged act of domestic violence within the purview of KRS 403.715 to**  
 7           **403.785.**

8           **(c) The court shall explain to the petitioner that contacting the county attorney**  
 9           **is voluntary and not mandatory.**

10          **(2) If the petitioner decides to contact the county attorney, the court shall notify the**  
 11          **county attorney and assist in facilitating a meeting between the petitioner and the**  
 12          **county attorney.**

13          **(3) At a meeting with the petitioner, the county attorney shall:**

14           **(a) Ascertain from the petitioner the facts of the incident;**

15           **(b) Determine which criminal offenses may have been committed by the**  
 16           **respondent;**

17           **(c) Advise the petitioner of the statutes which may have been violated, the**  
 18           **potential penalties involved, the details of bringing a criminal action, and**  
 19           **the standard of proof required in a criminal action; and**

20           **(d) Such other information as the county attorney deems appropriate.**

21          **(4) (a) At the meeting, the county attorney shall answer, in the fullest manner**  
 22          **possible, any questions relating to filing and prosecution of criminal**  
 23          **charges which the petitioner may have.**

24           **(b) The county attorney shall explain to the petitioner that the petitioner is not**  
 25           **obligated to file criminal charges and may continue with the civil domestic**  
 26           **violence order process.**

27          **(5) If the petitioner desires to file criminal charges, the county attorney shall assist**

**the petitioner in filing a criminal complaint and obtaining a summons or warrant of arrest for the respondent.**

➔Section 5. KRS 403.750 is amended to read as follows:

- (1) Following the hearing provided for under KRS 403.740 and 403.745, the court, if it finds from a preponderance of the evidence that an act or acts of domestic violence and abuse have occurred and may again occur, may:

(a) Restrain the adverse party from any contact or communication with the petitioner except as directed by the court;

(b) Restrain the adverse party from committing further acts of domestic violence and abuse;

(c) Restrain the adverse party from disposing of or damaging any of the property of the parties;

(d) **Restrain the adverse party from going to or within a specified distance of a specifically described residence, school, or place of employment of the petitioner, minor child of the petitioner, family member, or member of an unmarried couple protected in the order;**

**(e)** Direct the adverse party to vacate the residence shared by the parties to the action;

**(f)** Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.822, award temporary custody;

**(g)** Utilizing the criteria set forth in KRS 403.211, 403.212, and 403.213, award temporary support;

**(h)** Direct that either or both parties receive counseling services available in the community, except that the court shall not order or refer the parties to participate in mediation for resolution of the issues alleged in the petition filed pursuant to KRS 403.715 to 403.785;~~[-or]~~

**(i) Restrain the adverse party from approaching the petitioner or a minor child**



of the petitioner within a distance specified in the order, not to exceed five hundred (500) feet; or

(i)[(h)] Except for ordering the use of a global positioning monitoring system, which shall not be utilized until after a court determines that a substantial violation of a domestic violence order has occurred, enter other orders the court believes will be of assistance in eliminating future acts of domestic violence and abuse.

(2) Any order entered pursuant to this section shall be effective for a period of time, fixed by the court, not to exceed three (3) years and may be reissued upon expiration for an additional period of up to three (3) years. The number of times an order may be reissued shall not be limited. With respect to whether an order should be reissued, any party may present to the court testimony relating to the importance of the fact that acts of domestic violence or abuse have not occurred during the pendency of the order.

(3) Upon proper filing of a motion, either party may seek to amend a domestic violence order.

(4) When temporary child support is granted under the provisions of this section, the court shall enter an order detailing how the child support is to be paid and collected. The enforcement procedures for child support orders, entered pursuant to KRS 403.211, 403.212, and 403.213, including but not limited to 403.215, shall be available to temporary child support orders issued under KRS 403.715 to 403.785.

(5) Any order entered pursuant to this section restraining a party or parties to an action shall be issued without bond being required of the petitioner.

➔SECTION 6. A NEW SECTION OF KRS 403.715 TO 403.785 IS CREATED TO READ AS FOLLOWS:

(1) Testimony taken at any hearing or other proceeding authorized by KRS 403.715 to 403.785 shall be taken under oath.

1 (2) (a) Before imposing a condition described in subsection (1)(d) of Section 2 or  
 2 subsection (1)(d) of Section 5 of this Act, the court shall afford the  
 3 petitioner an opportunity to provide the court with a list of specified areas  
 4 from which the petitioner would like the respondent excluded and shall  
 5 consider the petitioner's request, if any, in determining the locations the  
 6 respondent will be ordered to refrain from going to or near. The petitioner  
 7 shall provide the court with an explanation of the reasons for and the  
 8 benefits of ordering the respondent to be excluded from each location.

9 (b) Before imposing a condition described in subsection (1)(d) of Section 5 of  
 10 this Act, a court shall afford the respondent an opportunity to provide the  
 11 court with any objections or concerns relating to areas which the petitioner  
 12 has requested that the respondent be ordered to refrain from going to or  
 13 near. The respondent shall provide the court with an explanation of the  
 14 reasons for or the benefits of denying the petitioner's request that the  
 15 respondent be excluded from each location. If the respondent or counsel for  
 16 the respondent fails to appear for the hearing, the respondent is deemed to  
 17 waive, until and unless another hearing is set, any objection to the  
 18 petitioner's request.

19 (3) If the court imposes a condition described in subsection (1)(d) of Section 2 or  
 20 subsection (1)(d) of Section 5 of this Act, the court shall specifically describe the  
 21 locations that the respondent has been ordered to refrain from going to or near  
 22 and the minimum distances, if any, that the respondent shall maintain from those  
 23 locations. The court may consider whether the respondent may pass a prohibited  
 24 location when going to or from any other location and the times of and necessity  
 25 for modifying any order to accommodate this travel, provided that the respondent  
 26 does not interrupt his or her travel to harass, harm, or attempt to harm the  
 27 petitioner.

(4) The court shall not order the respondent to refrain from going to or near a location where there is not a specific, demonstrable danger to the petitioner, minor child of the petitioner, family member, or member of an unmarried couple protected in the order.

➔SECTION 7. A NEW SECTION OF KRS 403.715 TO 403.785 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "substantial violation" means a violation of a domestic violence order that has resulted in one (1) or more of the following acts by the respondent against the petitioner, minor child of a petitioner, family member, or member of an unmarried couple protected in the order:

(a) An assault prohibited by KRS Chapter 508;

(b) Menacing as prohibited by KRS 508.050;

(c) Terroristic threatening as prohibited by KRS Chapter 508;

(d) Stalking as prohibited by KRS Chapter 508;

(e) Wanton endangerment as prohibited by KRS Chapter 508;

(f) Kidnapping or a related offense as prohibited by KRS Chapter 509;

(g) A sexual offense as prohibited by KRS Chapter 510 other than indecent exposure;

(h) Burglary as prohibited by KRS Chapter 511;

(i) Destruction or damage to property as prohibited by KRS Chapter 512;

(j) Theft as prohibited by KRS Chapter 514;

(k) Harassment or harassing communications as prohibited by KRS Chapter 525; or

(l) Any felony offense against the petitioner, minor child of the petitioner, family member, or member of an unmarried couple protected in the order.

(2) Following a report of an alleged substantial violation of a domestic violence order by a respondent and prior to any civil hearing on the alleged violation of

1 the order, the court shall obtain an updated report of the respondent's Kentucky  
 2 criminal history from the Administrative Office of the Courts or the Department  
 3 of Kentucky State Police and shall obtain from the Administrative Office of the  
 4 Courts the history of Kentucky Emergency Protective Orders and Domestic  
 5 Violence Orders against the respondent, together with any violations of those  
 6 orders.

7 (3) Following an alleged substantial violation of a domestic violence order, the court  
 8 shall hold a hearing to determine if the violation occurred, and if the violation  
 9 occurred, what sanctions the court may apply. At the hearing the court shall  
 10 explain the sanctions which may be imposed to the petitioner and the respondent.  
 11 The court shall explain to the petitioner that the court may require a respondent  
 12 who has committed a substantial violation of the domestic violence order to wear  
 13 a global positioning monitoring system device in lieu of imprisoning the  
 14 respondent and, except as provided in this section, to pay the costs associated with  
 15 operating that system in relation to the respondent and the costs associated with  
 16 operating the system in relation to the petitioner if the petitioner elects to  
 17 participate.

18 (4) Before imposing global positioning monitoring, the court shall provide to the  
 19 petitioner information regarding:

20 (a) The petitioner's right to participate in a global positioning monitoring  
 21 system or to refuse to participate in that system and the procedure for  
 22 requesting that the court terminate the petitioner's participation;

23 (b) The manner in which the global positioning monitoring system technology  
 24 functions and the risks and limitations of that technology, and the extent to  
 25 which the system will track and record the respondent's location and  
 26 movements;

27 (c) Any locations that the respondent is ordered to refrain from going into or

1 near and the minimum distances, if any, that the respondent shall maintain  
 2 from those locations;

3 (d) Any sanctions that the court may impose on the respondent for violating, in  
 4 the future, a condition of the domestic violence order imposed under this  
 5 section;

6 (e) The procedure that the petitioner is to follow, and support services available  
 7 to assist the petitioner, including but not limited to a designated person or  
 8 office to notify if the respondent violates a condition of the domestic  
 9 violence order or if the global positioning monitoring equipment of the  
 10 respondent or of the petitioner fails; and

11 (f) Community services available to assist the petitioner in obtaining shelter,  
 12 counseling, education, child care, legal representation, and other assistance  
 13 available to address the consequences of domestic violence.

14 (5) Prior to ordering the respondent to wear a global positioning monitoring system  
 15 device the court shall provide the respondent an opportunity to controvert the  
 16 information provided by the petitioner or any other source and to provide to the  
 17 court the respondent's reasons why the respondent should not be ordered to wear  
 18 a global positioning monitoring system device.

19 (6) If the court orders the respondent to wear a global positioning monitoring system  
 20 device, in addition to the information described in subsection (4) of this section,  
 21 the court shall provide to the petitioner who participates in a global positioning  
 22 monitoring system under this section, the name and telephone number of an  
 23 appropriate local law enforcement agency in the county in which the order is  
 24 issued whom the petitioner may call to request immediate assistance if the  
 25 respondent violates a condition of the domestic violence order imposed pursuant  
 26 to Section 5 of this Act and this section. If the local law enforcement agency does  
 27 not provide service twenty-four (24) hours per day, seven (7) days per week, the

petitioner shall be instructed to call the local public safety answering point using the 911 telephone number.

(7) If the petitioner has requested that the respondent be ordered to wear a global positioning monitoring system device, the court shall, prior to ordering the respondent to wear a global positioning monitoring system device under this section:

(a) Consider the likelihood that without the utilization of a global positioning monitoring system the respondent will seek to kill, assault, stalk, harass, menace, or otherwise threaten the petitioner, minor child of the petitioner, family member, or member of an unmarried couple protected in the order; and

(b) Enter a determination of findings of fact and reasons as to why the petitioner's request for the respondent to be ordered to participate in global positioning monitoring is being granted or denied.

(8) A petitioner may request that the court terminate the petitioner's participation in a global positioning monitoring system at any time.

(9) (a) When a court determines that the respondent shall wear a global positioning monitoring system device, the court shall notify the respondent, the petitioner, and the entity providing global positioning monitoring system services of:

1. The fact that global positioning monitoring system participation has been ordered;

2. The cost that the respondent is to pay to the entity providing the global positioning monitoring system services, including but not limited to the amount to be paid, the frequency of the payments, the location to which the payments shall be sent, and the duration of the payments;

3. The cost of the administrative fee that the respondent is to pay to the

- 1                   county or counties providing the monitoring service;
- 2           4.   The restrictions on the respondent with regard to locations which the  
3                   respondent is not to go into or near and the specific distances  
4                   contained in the order;
- 5           5.   The permitted exceptions to the restrictions on the respondent which  
6                   relate to permitted travel by the respondent which may bring the  
7                   respondent near or into a location where the respondent normally  
8                   would be prohibited from going into or near;
- 9           6.   The duration of time that the respondent shall wear the device which  
10                   shall not exceed the duration of the underlying domestic violence  
11                   order but which may be shorter than the underlying domestic violence  
12                   order. The date of expiration of the requirement to wear the device  
13                   shall be specified in the order;
- 14           7.   The notifications to be made in the event that the respondent violates  
15                   the domestic violence order; and
- 16           8.   Such other information as the court deems appropriate.
- 17   (b)   If the court determines that a respondent is indigent, the court may, based  
18           on a sliding scale established by the Supreme Court of Kentucky by rule,  
19           require the respondent to pay the costs imposed under this section in an  
20           amount that is less than the full amount of the costs associated with  
21           operating the global positioning monitoring system in relation to the  
22           respondent or providing the petitioner with an electronic receptor device.
- 23   (c)   If a respondent pays to an entity that operates a global positioning  
24           monitoring system the amount ordered by the court under this subsection,  
25           the entity shall accept the amount as payment in full. Neither the  
26           Commonwealth, nor the Court of Justice nor the county, urban county,  
27           charter county, or consolidated local government shall be responsible for

payment of any costs associated with operating the global positioning monitoring system in relation to an indigent respondent or petitioner.

(d) A court that imposes a condition described by this section shall order the entity that operates the global positioning monitoring system to immediately notify the petitioner, the court, and the appropriate local law enforcement agency named in the order if a respondent violates a condition of the domestic violence order imposed under this section or Section 5 of this Act.

(10) The provisions of this section do not limit the authority of a court to impose any other reasonable conditions authorized by Section 2, 5, or 6 of this Act.

(11) (a) A respondent who has been ordered by a court to wear a global positioning monitoring system monitoring device pursuant to this section shall not, without written permission from the court issuing the order or a higher court to which the issuance of the order has been appealed:

1. Fail to wear the device;

2. Remove a device that the respondent has been ordered to wear; or

3. Tamper with or destroy a device that the respondent has been ordered to wear.

(b) A respondent who violates paragraph (a) of this subsection shall be guilty of a Class D felony.

(c) The provisions of this section shall not apply to a respondent who, upon the expiration of the order that required the respondent to wear the global positioning monitoring system device, permits the entity providing the monitoring to remove the device.

(12) A person, county, or other organization may voluntarily agree to pay all or a portion of a defendant's monitoring costs specified in this section.

(13) (a) The provisions of this section shall not prohibit a court from imposing any other authorized sanction for a substantial violation of a domestic violence



1           order.

2           **(b) The provisions of this section shall not prohibit a court from imposing any**  
 3           **authorized sanction, other than ordering the respondent to wear a global**  
 4           **positioning system monitoring device, for a violation of a domestic violence**  
 5           **order which does not constitute a substantial violation as defined in this**  
 6           **section.**

7           ➔SECTION 8. A NEW SECTION OF KRS 403.715 TO 403.785 IS CREATED  
 8 TO READ AS FOLLOWS:

9           **(1) At any time following three (3) months since the entry of the order requiring the**  
 10           **respondent to wear a global positioning monitoring system device, the respondent**  
 11           **may apply to the court issuing the order for a modification shortening the**  
 12           **duration of the order or rescinding the order.**

13           **(2) Prior to acting on the respondent's request, the court shall conduct a hearing**  
 14           **during which the opinions of both the respondent and petitioner and the evidence**  
 15           **supporting or controverting the respondent's request shall be heard and**  
 16           **considered by the court.**

17           **(3) If the respondent has not violated the order requiring that the respondent wear a**  
 18           **global positioning monitoring system device, the court may shorten the duration**  
 19           **which the respondent shall be required to wear the global positioning monitoring**  
 20           **system device or may vacate the order.**

21           **(4) If the court denies a respondent's application to shorten the time for wearing a**  
 22           **global positioning monitoring system device or to vacate the order, the respondent**  
 23           **shall not make another application to the court for a period of six (6) months**  
 24           **from the date of the denial of the previous application.**

25           ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO  
 26 READ AS FOLLOWS:

27           **Any county or combination of counties may operate a global positioning monitoring**

system program subject to the following conditions:

(1) The program shall be assigned by ordinance to a county department or county agency that agrees to operate or supervise the program continuously, twenty-four (24) hours per day, seven (7) days per week;

(2) Each county shall identify a law enforcement agency or agencies with jurisdiction in the county to assist a petitioner, victim, or witness when a person ordered to wear a monitoring device violates the provisions of the court's order and is in need of assistance;

(3) A county or counties electing to contract with an entity providing a global positioning monitoring system and devices shall meet not less than all of the requirements of this section and Section 7 of this Act;

(4) Each county shall monitor the performance of the entity providing the global positioning system and devices and shall have a provision in the contract with the monitoring entity agreeing to the termination of the contract in the event of serious or continued violations of the contract;

(5) Any system chosen shall use the most appropriate global positioning technology to track the person ordered to wear the monitoring device and shall include technology that:

(a) In a domestic violence case under KRS 403.715 to 403.785:

1. Notifies law enforcement or other monitors of any breach of the court-ordered boundaries;

2. Notifies the petitioner in a timely manner of any breach; and

3. Allows monitors to communicate directly with the person ordered to wear the monitoring device; and

(b) In other situations in which monitoring is authorized by Sections 8, 10, 11, 12, 13, 14, and 15 of this Act the contracting county or combination of counties shall, in the contract, specify the type and level of global

- 1           positioning monitoring system services desired;
- 2   (6) The monitoring entity shall agree to a price for monitoring during the duration of  
3       the contract which shall not be increased but may be reduced during the duration  
4       of the contract. The contract shall provide that reduced payments shall be  
5       accepted by the vendor as a full payment for all purposes from persons  
6       determined to be indigent by a court or other authority ordering the use of  
7       monitoring. In bidding for the contract the vendor may take into account that  
8       some monitored persons will not be able to pay the full cost of the monitoring or  
9       may not be able to pay any cost for the monitoring. The contract shall specify that  
10       no unit of state or local government and no public officer or employee shall be  
11       liable for the costs of monitoring under the contract. Notwithstanding the  
12       provisions of this subsection, a county or counties may agree to pay all or a part  
13       of the monitoring fee to the monitoring entity if the county would have otherwise  
14       been required by a court to place a person in jail at county expense and the cost  
15       of the monitoring is less than the cost of placing the person in jail;
- 16   (7) Agreements between counties for monitoring services may, with the approval of  
17       their governing bodies, be consummated by a contract signed by all counties  
18       party thereto or by an interlocal cooperation agreement;
- 19   (8) A county utilizing a global positioning monitoring system program may charge  
20       an administrative fee to a person ordered to participate in a global positioning  
21       monitoring program to provide for the county's cost in administering the  
22       monitoring program. The fee shall be set by ordinance and shall be in addition to  
23       the fee charged by the entity contracted to provide the monitoring; and
- 24   (9) The provisions of Sections 1, 2, 3, 4, 5, 6, 7, and 8 of this Act shall not apply to a  
25       person ordered to participate in a global positioning monitoring system under  
26       Sections 11, 12, 13, 14, and 15 of this Act. The provisions of a court order that  
27       relate to a person ordered to participate in a global positioning monitoring system

pursuant to Sections 11, 12, 13, 14, and 15 of this Act shall govern that person's conduct and any reporting or other requirements ordered by the court.

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) "Global positioning monitoring system" has the same meaning as in Section 1 of this Act.

(2) A county or combination of counties electing to participate in a global positioning monitoring system program shall, by ordinance, set other requirements for global positioning monitoring system devices and for the operation of the global positioning monitoring system which shall include, at a minimum, the requirements contained in KRS 403.715 to 403.785 and the provisions of this section and Section 9 of this Act.

(3) A county or combination of counties electing to participate in a global positioning monitoring system program shall, through a public bid process, select an entity or entities to provide the best available technology with regard to global positioning monitoring system devices that meet the requirements of this section and Sections 1, 5, 6, 7, and 9 of this Act and a system that meets those same requirements, including but not limited to the acceptance of reduced fees for petitioners and indigent persons ordered to wear a monitoring device.

(4) A person, county, or combination of counties electing to participate in a global positioning monitoring system program shall continuously monitor the performance of successful bidders, receive complaints regarding service, and conduct hearings pursuant to KRS Chapter 13B which may result in penalties as set out in the contract against an entity providing global positioning monitoring system services or which may result in cancellation of the contract with the provider of the service, or both. The provisions of this subsection shall be part of any bid offering and any contract entered into between the county or combination

1 of counties and an entity providing global positioning monitoring system services.

2 (5) A county or combination of counties electing to operate a global positioning  
 3 monitoring system program may utilize that program for:

4 (a) Monitoring a domestic violence respondent and petitioner pursuant to KRS  
 5 403.715 to 403.785;

6 (b) Monitoring the pretrial release of a person charged with a crime pursuant  
 7 to KRS 431.515 to 431.550;

8 (c) Monitoring a person assigned to a pretrial diversion program pursuant to  
 9 KRS 533.250 to 533.262; and

10 (d) Monitoring a person granted probation or conditional discharge pursuant  
 11 to KRS Chapter 533.

12 (6) Information obtained by a global positioning monitoring system shall not be a  
 13 public record.

14 (7) Information obtained by a global positioning monitoring system shall be used  
 15 only for the purpose of verifying the location of the monitored person. Global  
 16 positioning monitoring system information obtained from persons subject to  
 17 monitoring pursuant to KRS 403.715 to 403.785 shall not be utilized for any  
 18 criminal investigation, prosecution, or other criminal justice related purpose  
 19 without a valid search warrant or order issued by a court of competent  
 20 jurisdiction. Information obtained in violation of this subsection or without a  
 21 valid search warrant or court order shall be inadmissible in court for any  
 22 purpose.

23 (8) Any person or organization who knowingly or wantonly divulges global  
 24 positioning monitoring system information about any person in violation of  
 25 subsection (6) or (7) of this section shall be guilty of a Class A misdemeanor.

26 ➔ Section 11. KRS 431.517 is amended to read as follows:

27 (1) Except as provided in this section, home incarceration may be ordered as a form of

1 pretrial release, subject to the conditions imposed by the provisions of KRS 532.200  
2 to 532.250.

3 (2) A court ordering home incarceration as a form of pretrial release pursuant to this  
4 section may order the defendant to participate in a global positioning monitoring  
5 system program during all or part of the time of pretrial release through the use  
6 of a county-operated program pursuant to Sections 9 and 10 of this Act and not a  
7 program operated by the Department of Corrections pursuant to KRS 532.210 to  
8 532.250.

9 (3) A court ordering global positioning monitoring system program participation for  
10 a defendant pursuant to this section shall:

11 (a) Require the defendant to pay all or the part of the monitoring costs based on  
12 the sliding scale adopted by the Supreme Court of Kentucky as specified in  
13 Section 7 of this Act and administrative costs for participating in the  
14 system;

15 (b) Provide the monitoring system with a written or electronic copy of the  
16 conditions of release; and

17 (c) Provide the monitoring system with a contact at the office of the circuit  
18 clerk, Commonwealth's attorney, or county attorney, as appropriate, or  
19 pretrial release services for reporting violations of the monitoring order.

20 (4) A person, county, or other organization may voluntarily agree to pay all or a  
21 portion of a defendant's monitoring costs specified in Section 7 of this Act.

22 ➔Section 12. KRS 431.518 is amended to read as follows:

23 When considering the pretrial release of a person charged with a felony offense under  
24 KRS Chapter 218A or a person charged with a felony offense whose criminal record  
25 indicates a history of recent and relevant substance abuse, the court considering the  
26 release shall cause the court's pretrial release investigation and services office to have the  
27 person screened for recent and relevant substance abuse risk factors. A person's refusal to

1 participate in the screening shall not disqualify the person from being granted pretrial  
 2 release. If this screening indicates the presence of recent and relevant substance abuse risk  
 3 factors, the court may order as a condition of pretrial release that the person:

- 4 (1) Undertake any testing ordered by the court under KRS 431.520 or 431.525;
- 5 (2) Participate in an additional assessment of the person's condition;
- 6 (3) Participate in a secular or faith-based treatment or recovery program if one (1) is  
 7 identified as appropriate to the person as a result of the person's initial assessment  
 8 or an additional assessment performed under subsection (2) of this section;~~[-and]~~
- 9 (4) Appear at any subsequent hearing ordered by the court where the person's  
 10 conditions of pretrial release may be reviewed and modified as the result of any  
 11 testing performed under subsection (1) of this section, any additional assessment  
 12 performed under subsection (2) of this section, any additional assessment of the  
 13 defendant performed by a qualified mental health professional which the defendant  
 14 may offer for the court's consideration, or the person's compliance with any  
 15 treatment or recovery plan ordered by the court under subsection (3) of this section;  
 16 and

17 (5) Participate in a global positioning monitoring system program operated by a  
 18 county pursuant to Sections 9 and 10 of this Act under the same terms and  
 19 conditions as provided in Section 11 of this Act, during all or part of the person's  
 20 period of release pursuant to this section.

21 ➔Section 13. KRS 431.520 is amended to read as follows:

22 Any person charged with an offense shall be ordered released by a court of competent  
 23 jurisdiction pending trial on his personal recognizance or upon the execution of an  
 24 unsecured bail bond in an amount set by the court or as fixed by the Supreme Court as  
 25 provided by KRS 431.540, unless the court determines in the exercise of its discretion  
 26 that such a release will not reasonably assure the appearance of the person as required.  
 27 When such a determination is made, the court shall, either in lieu of or in addition to the

1 above methods of release, impose any of the following conditions of release:

2 (1) Place the person in the custody of a designated person or organization agreeing to  
3 supervise him;

4 (2) Place restrictions on the travel, association, or place of abode of the person during  
5 the period of release;

6 (3) Require the execution of a bail bond:

7 (a) With sufficient personal surety or sureties acceptable to the court; in  
8 determining the sufficiency of such surety, or sureties, the court shall consider  
9 his character, his place of residence, his relationship with the defendant, and  
10 his financial and employment circumstances; or

11 (b) With the 10% deposit as provided in KRS 431.530; or

12 (c) With the deposit of cash equal to the amount of the bond or in lieu thereof  
13 acceptable security as provided in KRS 431.535;

14 (4) If the person's record indicates a history of controlled substance or alcohol abuse,  
15 order the person to submit to periodic testing for use of controlled substances or  
16 alcohol and pay a reasonable fee, not to exceed the actual cost of the test and  
17 analysis, as determined by the court with the fee to be collected by the circuit clerk,  
18 held in an agency account, and disbursed, on court order, solely to the agency or  
19 agencies responsible for testing and analysis as compensation for the cost of the  
20 testing and analysis performed under this subsection. If the person is declared  
21 indigent, the testing fee may be waived by the court. The Administrative Office of  
22 the Courts shall establish pilot projects to implement the provisions of this  
23 subsection;

24 (5) (a) During all or part of a person's period of release pursuant to this section,  
25 order the person to participate in a global positioning monitoring system  
26 program operated by a county pursuant to Sections 9 and 10 of this Act  
27 under the same terms and conditions provided under Section 11 of this Act.



- 1       **(b)** If the person is charged with a sex crime as defined in KRS 17.500, consider  
2           requiring that he or she be monitored electronically, and shall consider  
3           requiring the person be subject to home incarceration;
- 4   (6) Impose any other condition deemed reasonably necessary to assure appearance as  
5       required, including a condition requiring that the person return to custody after  
6       specified hours;
- 7   (7) A court authorizing the release of a person pursuant to this section shall cause the  
8       issuance of an appropriate order containing a statement of the conditions imposed,  
9       if any, shall cause such person to be informed of the penalties applicable to  
10      violations of the conditions of his release, and shall cause him to be informed that a  
11      warrant for his arrest will be issued immediately upon any such violation;
- 12   (8) A person for whom conditions of release are imposed and who after twenty-four  
13       (24) hours from the time of the imposition of said conditions continues to be  
14       detained as a result of his inability to meet the conditions of release shall, upon  
15       written application or upon the court's own motion, be entitled to have the  
16       conditions reviewed by the court which imposed them. A person who is ordered  
17       released on a condition which requires that he return to custody after specified hours  
18       shall, upon written application or upon the court's own motion, be entitled to a  
19       review by the court which imposed the condition;
- 20   (9) If at any time following release of a defendant and before he is required to appear  
21       for trial, the court is advised of a material change in the defendant's circumstances  
22       or that he has not complied with all conditions imposed upon his release, the court  
23       having jurisdiction may:
- 24       (a) Order the arrest of the defendant;
- 25       (b) Enter an order requiring the defendant, his surety or sureties to appear and  
26           show cause why the bail bond should not be forfeited or the conditions of his  
27           release be changed; or

1 (c) Both.

2 A copy of said order shall be served upon the defendant, his surety or sureties. If the  
3 defendant fails to appear before the court as ordered or if, after hearing, the court  
4 finds the conditions of release have not been complied with, the court may change  
5 the conditions imposed or forfeit the bail bond or any portion thereof and enter a  
6 judgment for the Commonwealth against the defendant and his surety or sureties for  
7 the amount of the bail bond or any portion thereof and cost of the proceedings.

8 ➔Section 14. KRS 533.250 is amended to read as follows:

9 (1) A pretrial diversion program shall be operated in each judicial circuit. The chief  
10 judge of each judicial circuit, in cooperation with the Commonwealth's attorney,  
11 shall submit a plan for the pretrial diversion program to the Supreme Court for  
12 approval on or before December 1, 1999. The pretrial diversion program shall  
13 contain the following elements:

14 (a) The program may be utilized for a person charged with a Class D felony  
15 offense who has not, within ten (10) years immediately preceding the  
16 commission of this offense, been convicted of a felony under the laws of this  
17 state, another state, or of the United States, or has not been on probation or  
18 parole or who has not been released from the service of any felony sentence  
19 within ten (10) years immediately preceding the commission of the offense;

20 (b) The program shall not be utilized for persons charged with offenses for which  
21 probation, parole, or conditional discharge is prohibited under KRS 532.045;

22 (c) No person shall be eligible for pretrial diversion more than once in a five (5)  
23 year period;

24 (d) No person shall be eligible for pretrial diversion who has committed a sex  
25 crime as defined in KRS 17.500. A person who is on pretrial diversion on July  
26 12, 2006, may remain on pretrial diversion if the person continues to meet the  
27 requirements of the pretrial diversion and the registration requirements of

1 KRS 17.510;

2 (e) Any person charged with an offense not specified as precluding a person from  
3 pretrial diversion under paragraph (b) of this subsection may apply in writing  
4 to the trial court and the Commonwealth's attorney for entry into a pretrial  
5 diversion program;

6 (f) Any person shall be required to enter an Alford plea or a plea of guilty as a  
7 condition of pretrial diversion;

8 (g) The provisions of KRS 533.251 shall be observed; and

9 (h) The program may include as a component referral to the intensive secured  
10 substance abuse treatment program developed under KRS 196.285 for persons  
11 charged with a felony offense under KRS Chapter 218A and persons charged  
12 with a felony offense whose record indicates a history of recent and relevant  
13 substance abuse who have not previously been referred to the program under  
14 KRS 533.251.

15 (2) Upon the request of the Commonwealth's attorney, a court ordering pretrial  
16 diversion may order the person to participate in a global positioning system  
17 monitoring system program through the use of a county-operated program  
18 pursuant to Sections 9 and 10 of this Act for all or part of the time during which  
19 a pretrial diversion agreement is in effect.

20 (3) A court ordering global positioning monitoring system for a person pursuant to  
21 this section shall:

22 (a) Require the person to pay all or a part of the monitoring costs based upon  
23 the sliding scale determined by the Supreme Court of Kentucky pursuant to  
24 Section 7 of this Act and administrative costs for participating in the  
25 system;

26 (b) Provide the monitoring system with a written or electronic copy of the  
27 conditions of release; and

1 (c) Provide the monitoring system with a contact at the office of the  
 2 Commonwealth's attorney for reporting violations of the monitoring order.

3 (4) A person, county, or other organization may voluntarily agree to pay all or a  
 4 portion of a person's monitoring costs specified in subsection (3) of this section.

5 (5) The court shall not order a person to participate in a global positioning  
 6 monitoring system program unless the person agrees to the monitoring in open  
 7 court or the court determines that public safety and the nature of the person's  
 8 crime require the use of a global positioning monitoring system program.

9 (6) The Commonwealth's attorney shall make a recommendation upon each application  
 10 for pretrial diversion to the Circuit Judge in the court in which the case would be  
 11 tried. The court may approve or disapprove the diversion.

12 ~~(7)(3)~~ The court shall assess a diversion supervision fee of a sufficient amount to  
 13 defray all or part of the cost of participating in the diversion program. Unless the fee  
 14 is waived by the court in the case of indigency, the fee shall be assessed against  
 15 each person placed in the diversion program. The fee may be based upon ability to  
 16 pay.

17 ➔Section 15. KRS 533.030 is amended to read as follows:

18 (1) The conditions of probation and conditional discharge shall be such as the court, in  
 19 its discretion, deems reasonably necessary to insure that the defendant will lead a  
 20 law-abiding life or to assist him to do so. The court shall provide as an explicit  
 21 condition of every sentence to probation or conditional discharge that the defendant  
 22 not commit another offense during the period for which the sentence remains  
 23 subject to revocation.

24 (2) When imposing a sentence of probation or conditional discharge, the court may, in  
 25 addition to any other reasonable condition, require that the defendant:

26 (a) Avoid injurious or vicious habits;

27 (b) Avoid persons or places of disreputable or harmful character;

- 1 (c) Work faithfully at suitable employment as far as possible;
- 2 (d) Undergo available medical or psychiatric treatment and remain in a specific
- 3 institution as required for that purpose;
- 4 (e) Post a bond, without surety, conditioned on performance of any of the
- 5 prescribed conditions;
- 6 (f) Support his dependents and meet other family responsibilities;
- 7 (g) Pay the cost of the proceeding as set by the court;
- 8 (h) Remain within a specified area;
- 9 (i) Report to the probation officer as directed;
- 10 (j) Permit the probation officer to visit him at his home or elsewhere;
- 11 (k) Answer all reasonable inquiries by the probation officer and promptly notify
- 12 the probation officer of any change in address or employment;~~[-and]~~
- 13 (l) Submit to periodic testing for the use of controlled substances or alcohol, if
- 14 the defendant's record indicates a controlled substance or alcohol problem,
- 15 and to pay a reasonable fee, as determined by the court, which fee shall not
- 16 exceed the actual cost of the test and analysis and shall be paid directly to the
- 17 agency or agencies responsible for testing and analysis as compensation for
- 18 the cost of the testing and analysis, as specified by written order of the court,
- 19 performed under this subsection. For good cause shown, the testing fee may
- 20 be waived by the court; and
- 21 **(m) During all or part of the period of probation or conditional discharge,**
- 22 **participate in a global positioning monitoring system program operated by a**
- 23 **county pursuant to Sections 9 and 10 of this Act under the same terms and**
- 24 **conditions as provided in Section 11 of this Act.**
- 25 (3) When imposing a sentence of probation or conditional discharge in a case where a
- 26 victim of a crime has suffered monetary damage as a result of the crime due to his
- 27 property having been converted, stolen, or unlawfully obtained, or its value

1 substantially decreased as a result of the crime, or where the victim suffered actual  
2 medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of  
3 the crime, or where the victim incurred expenses in relocating for the purpose of the  
4 victim's safety or the safety of a member of the victim's household, or if as a direct  
5 result of the crime the victim incurred medical expenses that were paid by the  
6 Cabinet for Health and Family Services, the Crime Victims Compensation Board,  
7 or any other governmental entity, the court shall order the defendant to make  
8 restitution in addition to any other penalty provided for the commission of the  
9 offense. Payment of restitution to the victim shall have priority over payment of  
10 restitution to any government agency. Restitution shall be ordered in the full amount  
11 of the damages, unless the damages exceed one hundred thousand dollars  
12 (\$100,000) or twice the amount of the gain from the commission of the offense,  
13 whichever is greater, in which case the higher of these two (2) amounts shall be  
14 awarded. The court may, in lieu of ordering monetary restitution, order the  
15 defendant to make restitution by working for or on behalf of the victim. The court  
16 shall determine the number of hours of work necessary by applying the then-  
17 prevailing federal minimum wage to the total amount of monetary damage caused  
18 by or incidental to the commission of the crime. The court may, with the consent of  
19 the agency, order the defendant to work as specified in KRS 533.070. Any work  
20 ordered pursuant to this section shall not be deemed employment for any purpose,  
21 nor shall the person performing the work be deemed an employee for any purpose.  
22 Where there is more than one (1) defendant or more than one (1) victim, restitution  
23 may be apportioned. Restitution shall be subject to the following additional terms  
24 and conditions:

- 25 (a) Where property which is unlawfully in the possession of the defendant is in  
26 substantially undamaged condition from its condition at the time of the taking,  
27 return of the property shall be ordered in lieu of monetary restitution;

- 1 (b) The circuit clerk shall assess an additional fee of five percent (5%) to defray  
2 the administrative costs of collection of payments or property. This fee shall  
3 be paid by the defendant and shall inure to a trust and agency account which  
4 shall not lapse and which shall be used to hire additional deputy clerks and  
5 office personnel or increase deputy clerk or office personnel salaries, or  
6 combination thereof;
- 7 (c) When a defendant fails to make restitution ordered to be paid through the  
8 circuit clerk or a court-authorized program run by the county attorney or the  
9 Commonwealth's attorney, the circuit clerk or court-authorized program shall  
10 notify the court; and
- 11 (d) An order of restitution shall not preclude the owner of property or the victim  
12 who suffered personal physical or mental injury or out-of-pocket loss of  
13 earnings or support or other damages from proceeding in a civil action to  
14 recover damages from the defendant. A civil verdict shall be reduced by the  
15 amount paid under the criminal restitution order.
- 16 (4) When requiring fees for controlled substances or alcohol tests, or other fees and  
17 payments authorized by this section or other statute, except restitution, to be paid by  
18 the defendant, the court shall not order the payments to be paid through the circuit  
19 clerk.
- 20 (5) When a defendant is sentenced to probation or conditional discharge, he shall be  
21 given a written statement explicitly setting forth the conditions under which he is  
22 being released.
- 23 (6) When imposing a sentence of probation or conditional discharge, the court, in  
24 addition to conditions imposed under this section, may require as a condition of the  
25 sentence that the defendant submit to a period of imprisonment in the county jail or  
26 to a period of home incarceration at whatever time or intervals, consecutive or  
27 nonconsecutive, the court shall determine. The time actually spent in confinement

1 or home incarceration pursuant to this provision shall not exceed twelve (12)  
 2 months or the maximum term of imprisonment assessed pursuant to KRS Chapter  
 3 532, whichever is the shorter. Time spent in confinement or home incarceration  
 4 under this subsection shall be credited against the maximum term of imprisonment  
 5 assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional  
 6 discharge is revoked and the defendant is sentenced to imprisonment. Any  
 7 prohibitions against probation, shock probation, or conditional discharge under  
 8 KRS 533.060(2) or 532.045 shall not apply to persons convicted of a misdemeanor  
 9 or Class D felony and sentenced to a period of confinement or home incarceration  
 10 under this section.

11 ➔Section 16. KRS 15.334 is amended to read as follows:

- 12 (1) The Kentucky Law Enforcement Council shall approve mandatory training subjects  
 13 to be taught to all students attending a law enforcement basic training course that  
 14 include but are not limited to:
  - 15 (a) Abuse, neglect, and exploitation of the elderly and other crimes against the  
 16 elderly, including the use of multidisciplinary teams in the investigation and  
 17 prosecution of crimes against the elderly;
  - 18 (b) The dynamics of domestic violence, child physical and sexual abuse, and rape;  
 19 child development; the effects of abuse and crime on adult and child victims,  
 20 including the impact of abuse and violence on child development; legal  
 21 remedies for protection; lethality and risk issues; profiles of offenders and  
 22 offender treatment; model protocols for addressing domestic violence, rape,  
 23 and child abuse; available community resources and victim services; and  
 24 reporting requirements. This training shall be developed in consultation with  
 25 legal, victim services, victim advocacy, and mental health professionals with  
 26 expertise in domestic violence, child abuse, and rape;
  - 27 (c) Human immunodeficiency virus infection and acquired immunodeficiency



1 virus syndrome; and

2 (d) Identification and investigation of, responding to, and reporting bias-related  
3 crime, victimization, or intimidation that is a result of or reasonably related to  
4 race, color, religion, sex, or national origin.

5 (2) The council shall develop and approve mandatory professional development  
6 training courses to be presented to all certified peace officers. A mandatory  
7 professional development training course shall be first taken by a certified peace  
8 officer in the training year following its approval by the council and biennially  
9 thereafter. A certified peace officer shall be required to take these courses no more  
10 than two (2) times in eight (8) years.

11 (3) *The Justice and Public Safety Cabinet shall provide training on the subjects of*  
12 *domestic violence and abuse and may do so utilizing currently available*  
13 *technology. All certified peace officers shall be required to complete this training*  
14 *at least once every two (2) years.*

15 (4) The council shall promulgate administrative regulations in accordance with KRS  
16 Chapter 13A to establish mandatory basic training and professional development  
17 training courses.

18 ~~(5)~~(4) The council shall make an annual report by December 31 each year to the  
19 Legislative Research Commission that details the subjects and content of mandatory  
20 professional development training courses established during the past year and the  
21 subjects under consideration for future mandatory training.

22 ➔Section 17. KRS 431.005 is amended to read as follows:

23 (1) A peace officer may make an arrest:

24 (a) In obedience to a warrant; or

25 (b) Without a warrant when a felony is committed in his presence; or

26 (c) Without a warrant when he has probable cause to believe that the person being  
27 arrested has committed a felony; or

- 1 (d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been  
2 committed in his presence; or
- 3 (e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520,  
4 189.580, 511.080, or 525.070 has been committed in his presence, except that  
5 a violation of KRS 189A.010 or KRS 281A.210 need not be committed in his  
6 presence in order to make an arrest without a warrant if the officer has  
7 probable cause to believe that the person has violated KRS 189A.010 or KRS  
8 281A.210.
- 9 (2) (a) Any peace officer may arrest a person without warrant when the peace officer  
10 has probable cause to believe that the person has intentionally or wantonly  
11 caused physical injury to a family member or member of an unmarried couple.
- 12 (b) For the purposes of this subsection, the term "family member" has the same  
13 meaning as set out in Section 1 of this Act~~[means a spouse, including a~~  
14 ~~former spouse, a parent, a grandparent, a child, a stepchild, or any other~~  
15 ~~person related by consanguinity or affinity within the second degree]~~.
- 16 (c) For the purpose of this subsection, the term "member of an unmarried couple"  
17 has the same meaning as set out in Section 1 of this Act~~[means each member~~  
18 ~~of an unmarried couple which allegedly has a child in common, any children~~  
19 ~~of that couple, or a member of an unmarried couple who are living together or~~  
20 ~~have formerly lived together]~~.
- 21 (3) A peace officer may arrest a person without a warrant when the peace officer has  
22 probable cause to believe that the person is a sexual offender who has failed to  
23 comply with the Kentucky Sex Offender Registry requirements based upon  
24 information received from the Law Information Network of Kentucky.
- 25 (4) For purposes of subsections (2) and (3) of this section, a "peace officer" is an officer  
26 certified pursuant to KRS 15.380.
- 27 (5) If a law enforcement officer has probable cause to believe that a person has violated

a condition of release imposed in accordance with KRS 431.064 and verifies that the alleged violator has notice of the conditions, the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

(6) A private person may make an arrest when a felony has been committed in fact and he has probable cause to believe that the person being arrested has committed it.

(7) If a law enforcement officer has probable cause to believe that a person has violated a restraining order issued under KRS 508.155, then the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

→SECTION 18. A NEW SECTION OF KRS CHAPTER 511 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "domestic violence shelter" means a residential facility providing protective shelter services for domestic violence victims.

(2) A person is guilty of domestic violence shelter trespass when:

(a) The person enters the buildings or premises of a domestic violence shelter that the person knows or should know is a domestic violence shelter or which is clearly marked on the building or premises as being a domestic violence shelter; and

(b) At the time of the entering, the person is the subject of an order of protection entered under Section 2 or 5 of this Act or a foreign protective order filed under KRS 403.7521.

(3) It shall be a defense to a prosecution under this section that the person entered the shelter with the permission of the operator of the shelter after disclosing to the operator that the person is the subject of an order of protection or a foreign projective order. Authority to enter under this subsection may not be granted by a person taking shelter at the facility.

1 **(4) A person shall not be convicted of a violation of this section and a violation of**  
 2 **KRS 511.060, 511.070, or 511.080 arising from the same act of trespass.**

3 **(5) Domestic violence shelter trespass is a Class A misdemeanor.**

4 ➔Section 19. KRS 403.735 is amended to read as follows:

5 (1) Upon the filing of a petition, as provided for in KRS 403.725, the court, after  
 6 review of the petition and determining that domestic violence and abuse exists,  
 7 without a jury, shall utilize one (1) of the alternatives provided for in KRS 403.740  
 8 or 403.745.

9 (2) A court may issue mutual protective orders only if a separate petition is filed by the  
 10 respondent. Pursuant to KRS 403.740 and 403.750, the court shall then provide  
 11 orders, sufficiently specific to apprise any peace officer as to which party has  
 12 violated the order if there is probable cause to believe a violation of the order has  
 13 occurred.

14 (3) (a) All courts shall provide twenty-four (24) hour access to emergency protective  
 15 orders.

16 (b) Each court shall submit written procedures for twenty-four (24) hour  
 17 accessibility to be reviewed and approved by the Kentucky Supreme Court.

18 (c) Each court shall establish the local protocol in domestic violence matters in  
 19 which there may be joint jurisdiction between District and Circuit Court. Each  
 20 court shall submit the written procedures to be reviewed and approved by the  
 21 Kentucky Supreme Court.

22 (d) All amendments or revisions to the local procedures required pursuant to this  
 23 section shall be submitted to the Kentucky Supreme Court for review and  
 24 approval.


25 (4) If an emergency protective order is not issued, the court shall note on the petition,  
 26 for the record, any action taken or denied and the reason for it.


27 **(5) If the court determines that the petitioner is not eligible for an emergency**

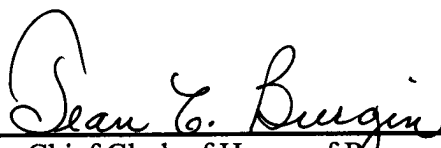
1       protective order, the court shall inform the petitioner of the petitioner's ability to  
2       contact the county attorney as provided in Section 4 of this Act.

3       ~~(6){{(5)}}~~     An order of protection issued under the provisions of KRS 403.715 to 403.785  
4       shall become effective and binding on the respondent at the time of personal service  
5       or when the respondent is given notice of the existence and terms of the order by a  
6       peace officer or the court, whichever is earlier. After notice of the existence and  
7       terms of the order is given to the respondent, a peace officer or the court may  
8       enforce the terms of the order, and act immediately upon any violation of the order.  
9       After notice of the order, all reasonable efforts shall be made by the peace officer or  
10      the court to arrange for personal service of the order upon the respondent.

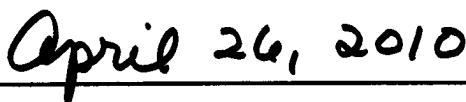
11      ➔Section 20. This Act shall be known as the "Amanda Ross Domestic Violence  
12      Prevention Act."

  
\_\_\_\_\_  
Speaker-House of Representatives

  
\_\_\_\_\_  
President of Senate

Attest:   
\_\_\_\_\_  
Chief Clerk of House of Representatives

Approved   
\_\_\_\_\_  
Governor

Date   
\_\_\_\_\_  
April 26, 2010